IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 951 OF 2005

Baban Balkrishna Chavan & anr. ... Appellants

V/s

The Collector, Sangli & ors. ... Respondents

Mr. Sandesh D. Patil for the appellants.

Ms. G.P. Mulekar, A.G.P. for the respondents 1 & 2.

CORAM: P.V. KAKADE, J.

DATED: 31ST AUGUST, 2005

P.C.:

1. The appellants have preferred this appeal against the judgment and order passed by the Addl. District Judge, Sangli, dated 14.9.2004 dismissing the appeal and confirming the judgment and order passed by the lower Court dismissing the plaintiffs' suit.

2. The plaintiffs filed the suit that the defendants - State Government, who had constructed a dam on a streamlet passing through the out-skirt of the land Gat Nos. 108, 104, 107 and 105, was intending to create a waste water weir channel flowing from the land Gat

No.103 belonging to the plaintiffs and that act of the Government is being questioned by the plaintiffs on various grounds including the allegation that the State Government is utilising the plaintiffs' land without lawful acquisition under the relevant law.

3. Both the Courts below have come to the conclusion that the suit is not maintainable in view of the fact that the plaintiffs failed to prove their case.

Moreover, it is also revealed from the record, as recorded by the lower appellate Court, that the plaintiffs/appellants had also given possession of the suit land and had executed possession receipt (Kabje Pavti) on 2.12.1988 and the award was passed by the State Government on 26.2.1988 which was not challenged and had become final. In view of this position, there is no cause of action for the suit and, as such, the appeal is bound to fail.

In the result, the appeal stands dismissed with no order as to costs.

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